

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
MONDAY, SEPTEMBER 27, 2004  
AT 2:00 P.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Mayor Murphy at 2:12 p.m. Mayor Murphy recessed the meeting at 3:02 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:15 p.m. with all Council Members present and District 4 vacant. Mayor Murphy recessed the meeting at 4:13 p.m. to convene the Special Joint Council Hearing with the Redevelopment Agency. Mayor Murphy reconvened the regular meeting at 4:40 p.m. with all Council Members present and District 4 vacant. Mayor Murphy adjourned the meeting at 4:45 p.m. into Closed Session in the Twelfth Floor Committee Room to discuss existing and potential litigation.

**ATTENDANCE DURING THE MEETING:**

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) District 4-Vacant
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present
- Clerk-Abdelnour/Maland (ek)

FILE LOCATION:                      MINUTES

ITEM-1:                      ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) District 4-Vacant
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

FILE LOCATION:                      MINUTES

ITEM-10:    INVOCATION

Invocation was given by Pastor Dr. Jim Garlow of  
Skyline Wesleyan Church.

FILE LOCATION:                      MINUTES

ITEM-20:    PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Toni Atkins.

FILE LOCATION:                      MINUTES

ITEM-30:    Adolfo Gonzales Day.

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-151 Cor. Copy)    ADOPTED AS RESOLUTION R-299677

Recognizing Adolfo Gonzales for his 26 years of dedicated service in the San Diego Police Department and to the citizens of San Diego;

Proclaiming September 27, 2004, to be “Adolfo Gonzales Day” in the City of San Diego.

FILE LOCATION:                      AGENDA

COUNCIL ACTION:                      (Time duration: 2:24 p.m. – 2:30 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Mayor Murphy. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-31:    Cabrillo Festival Week.

**COUNCILMEMBER ZUCCHET’S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-18) ADOPTED AS RESOLUTION R-299679

Proclaiming September 26 through October 3, 2004, to be “Cabrillo Festival Week in San Diego” and urging our citizens to join in the commemoration of this historic event.

FILE LOCATION:                      AGENDA

COUNCIL ACTION:                      (Time duration: 2:31 p.m. – 2:36 p.m.)

MOTION BY ZUCCHET TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

**CLOSED SESSION ITEMS**

**Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):**

**CS-1 *De Anza Cove Homeowners Association, Inc. v. City of San Diego*  
San Diego Superior Court Case No. GIC 821191**

**REFERRED TO CLOSED SESSION ON MONDAY, SEPTEMBER 27, 2004**

DCA assigned: Gleeson

This matter concerns the litigation filed by the De Anza Cove Homeowners Association [HOA] against the City of San Diego seeking damages related to expiration of the prior lease and transition of the property from use as a mobile home park to park and recreational use. In closed session, the City's outside litigation counsel and the City Attorney will report on the status of the litigation, and other matters affecting the litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:15 p.m. – 3:19 p.m.)

Mayor Murphy closed the Hearing.

**CS-2 *Roberta Crandall, etc. v. City of San Diego, et al.*  
United States District Court Case No. 02cv2124 J (POR)**

**REFERRED TO CLOSED SESSION ON MONDAY, SEPTEMBER 27, 2004**

DCA assigned: Castleman

This matter concerns the litigation filed by Roberta Crandall on behalf of the Estate of Gary Martin, arising from an incident in which a San Diego Police Officer used deadly force during the course of an arrest. In closed session, the City Manager and the City Attorney will report on the status of the litigation and the settlement demand made by the Plaintiff's attorney.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:15 p.m. – 3:19 p.m.)

Mayor Murphy closed the Hearing.

**CS-3 *Lisa Marie Jones v. City of San Diego***  
**San Diego Superior Court No. GIC 816837**

**REFERRED TO CLOSED SESSION ON MONDAY, SEPTEMBER 27, 2004**

DCA assigned: Ostrow

This is a complaint for personal injuries arising from an incident in which a concrete step near the bottom of a City-owned beach stairway collapsed under Plaintiff's foot, causing her to fracture her right ankle. In closed session, the City Manager and City Attorney will request that the City Council consider filing a 998 Offer to Compromise this case.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:15 p.m. – 3:19 p.m.)

Mayor Murphy closed the Hearing.

**CS-4 *Fennell v. City***  
**San Diego Superior Court No. GIC 814381**

**REFERRED TO CLOSED SESSION ON MONDAY, SEPTEMBER 27, 2004**

DCA assigned: Sherman

This is a trip and fall case in which Plaintiff contends that she was injured as a result of a dangerous condition of a City sidewalk at 3065 Rosecrans Place. In closed session, the City Manager and City Attorney will brief the City Council on the matter and discuss a proposed settlement of it.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:15 p.m. – 3:19 p.m.)

Mayor Murphy closed the Hearing.

**CS-5 *Conde v. City of San Diego et al*  
San Diego Superior Court No. GIC 834467**

**REFERRED TO CLOSED SESSION ON MONDAY, SEPTEMBER 27, 2004**

HDCA assigned: Girard

This matter is litigation concerning the District 4 vacancy and the application of term limits to former City Council Member George Stevens. While the City prevailed on the issue of the date for the special election, the applicability of term limits to Mr. Stevens is now at issue. In closed session the City Attorney will brief the City Council on the status of the case and seek direction for the City's position at the hearing on the issue.

**Closed Session Comment 1:**

John Stump stated that he represents a member of the electorate in District 4, and urged the City Council to discuss this matter in open session. Mr. Stump further stated that all the candidates for the race in District 4 are now known and have been qualified by the Registrar of Voters, and wants the City Council to allow the electorate in District 4 to make the decision on who their council person should be. He also urged the City Council to address the issue of ambiguity in the Election Code instead of allowing a judge to decide the issue.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:16 p.m. – 3:19 p.m.)

Mayor Murphy closed the Hearing.

**Conference with Legal Counsel - anticipated litigation - significant exposure to litigation, pursuant to California Government Code section 54956.9(b):**

**CS-6 *La Jolla United Methodist Church v. City of San Diego***

**REFERRED TO CLOSED SESSION ON MONDAY, SEPTEMBER 27, 2004**

DCA assigned: Gleeson



This matter concerns a dispute between the City and the La Jolla Methodist Church regarding property rights in the formerly planned extension of Faye Avenue. In closed session the City Attorney will advise the City Council on the status of the dispute and seek further direction concerning the matter.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:15 p.m. – 3:19 p.m.)

Mayor Murphy closed the Hearing.

\* ITEM-100: Inviting Bids for the Construction of Balboa Park West Arcade Reconstruction.

(Balboa Park Community Area. District-3.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-267) ADOPTED AS RESOLUTION R-299680

Approving the plans and specifications for the construction of Balboa Park West Arcade Reconstruction (Project) on Work Order No. 218551;

Authorizing the City Manager, after advertising for bids in accordance with law, to establish a contract, and to execute a contract with the lowest responsible and reliable bidder for the Project, contingent upon: (a) City Council approval of the expenditure of any additional Project funding that may become necessary as a result of the bid opening for the Project; and (b) the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure under established contract are, or will be, on deposit with the City Treasurer;

Authorizing the City Manager to take all necessary action to secure the generous donation of \$170,000 from the Committee of 100 for the construction of the Balboa Park West Arcade;

Authorizing the City Auditor and Comptroller to accept and appropriate the \$170,000 donation from the Committee of 100, into Fund 63022, Private and

Other Contributions and to transfer the same to CIP-21-855.0, Balboa Park West Arcade;

Authorizing, upon receipt of the donation, an increase of \$170,000 in the Fiscal Year 2005 Capital Improvement Program budget in CIP-21-855.1, Balboa Park West Arcade;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$170,000 from CIP-21-855.1, Balboa Park West Arcade, contingent upon the deposit of the donation funds from the Committee of 100;

Authorizing the additional expenditure of an amount not to exceed \$100,000 from CIP-21-855.1, Balboa Park West Arcade from Fund 102341, Regional Parks Infrastructure Fund, solely and exclusively for the purpose of providing funds for the Project and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure under established contract funding are, or will be, on deposit with the City Treasurer. (BID-K052155C)

**CITY MANAGER SUPPORTING INFORMATION:**

The West Arcade reconstruction project is located on the north side of El Prado in Balboa Park, between the Museum of Man and the Plaza de Panama. The project is located within the National Historic Landmark District and Historical Resources Board Site No. 1. The arcade will be a partial reconstruction of the Science and Education Building that was built for the 1915 Panama-California International Exposition. The arcade will be approximately 350 feet long, 18 feet wide and will vary in height from 20 feet to 32 feet. The West Arcade project is the last section of the Prado arcades to be restored and reconstructed. This project began as a major goal and fund raising campaign of The Committee of 100, a non-profit organization formed in 1967 to save the remnants of the Spanish Colonial architecture in the Park. The Committee of 100 will contribute \$170,000 to the project.

**FISCAL IMPACT:**

Expenditure of \$100,000 for the purchase of project plans for the Balboa Park West Arcade was previously authorized by City Council Resolution R-295431. Expenditure of \$1,500,000 for the construction of the Balboa Park West Arcade was previously authorized by City Council Resolution R-297723. Increase of \$100,000 for the construction of the Balboa Park West Arcade was included in the Fiscal Year 2005 budget process. Additional funds for the construction contract and related costs in the amount of \$170,000 are available from the Committee of 100 donations.

Previous Authorization	\$1,700,000
This Request	\$ 170,000
Total Amount	\$1,870,000

Herring/Oppenheim/CPD

Aud. Cert. 2500242.

FILE LOCATION: CONT – Augustine Company; W.O. #218551

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:19)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-101: Two actions related to Inviting Bids for the Construction of Carmel Valley Road Enhancements Project.

(Torrey Pines Community Area. District-1.)

**CITY MANAGER’S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2005-294) ADOPTED AS RESOLUTION R-299681

Approving the plans and specifications for the construction of Carmel Valley Road Enhancements (Project), on Work Order No. 525170;

Authorizing the City Manager, after advertising for bids in accordance with law, to award the Project contract to the lowest responsible and reliable bidder in an amount not to exceed \$5,466,833, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$1,629,891 from Fund 30306, TransNet Commercial Paper, CIP-52-330.0, Sorrento Valley Road Project, to CIP-52-517.0, Carmel Valley Road Enhancements Project.

Authorizing the City Auditor and Comptroller to transfer \$38,956 from Fund 30300, TransNet Cash, CIP-52-330.0, Sorrento Valley Road Project, to CIP-52-517.0, Carmel Valley Road Enhancements Project;

Authorizing the City Auditor and Comptroller to transfer \$370,000 from Fund 30306, TransNet Commercial Paper, CIP-52-674.0, Torrey Pines Slope Restoration Project, to CIP-52-517.0, Carmel Valley Road Enhancements Project;

Authorizing the City Auditor and Comptroller to transfer \$162,000 from Fund 79527, Torrey Pines Development Impact Fee, CIP-29-437.0, Torrey Pines Pocket Park, to CIP-52-517.0, Carmel Valley Road Enhancements Project;

Authorizing the expenditure of an amount not to exceed \$5,466,833, of which \$1,175,000 is previously authorized, \$4,082,641 is from TransNet Funds and \$162,000 is from DIF Funds, for construction of Carmel Valley Road Enhancements Project, from CIP-52-517.0, Carmel Valley Road Enhancements Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available, and \$47,192 from Fund 30101, Underground Surcharge Funds, CIP-37-028.0, Undergrounding of City Utilities, for the purposes of construction related to the undergrounding of utilities.

Authorizing the City Auditor and Comptroller, upon direction of the City Manager, to reallocate the funding sources between TransNet and Commercial Paper funded projects as may be appropriate to maximize the use of TransNet cash and reduce the use of Commercial Paper funding for CIP-52-517.0, Carmel Valley Road Enhancements Project.

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves. (BID-K051504C)

Subitem-B: (R-2005-295) ADOPTED AS RESOLUTION R-299682

Stating for the record that the information contained in the Final Environmental Impact Report including any comments received during the public review

process, has been previously reviewed and considered by the Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline Section 15162 would warrant any additional environmental review in connection with approval of Carmel Valley Road Enhancements Project;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

**CITY MANAGER SUPPORTING INFORMATION:**

Carmel Valley Road is a two lane collector that runs in an east-west direction, parallel to the Los Penasquitos Lagoon. This area is heavily used by local residents, commuters as well as visitors to the lagoon and the Torrey Pines Beach. This project will enhance the .9 mile stretch between Via Mar Valle and Portofino Drive. Improvements consist of added bike lanes, sidewalk on the north side, 4 foot pedestrian walkway on the south side, parking lanes, asphalt pavement repair, undergrounding of utilities, new street lights, and installation of curbs, gutters, pop-outs, storm drains and landscaping.

The overall goal of the project is to improve pedestrian and cyclist safety, reduce excessive speed, manage increasing traffic volumes and congestion, control overflow beach parking during summer weekends, improve water quality in Los Penasquitos Lagoon by treating runoffs, and enhance the appearance of Carmel Valley Road.

**FISCAL IMPACT:**

The total estimated cost of this project is \$5,466,833. There is \$3,218,794 available in CIP-52-517.0, Carmel Valley Road Enhancements Project. The additional funding required for this project is \$2,248,039 and is available as follows: Fund 30306, TransNet Commercial Paper, CIP-52-330.0, Sorrento Valley Road Project \$1,629,891; Fund 30300, TransNet Cash, CIP-52-330.0, Sorrento Valley Road Project \$38,956; Fund 30101, Underground Surcharge Funds CIP-37-028.0, Undergrounding of City Utilities \$47,192; Fund 30306, TransNet Commercial Paper CIP-52-674.0, Torrey Pines Slope Restoration Project \$370,000; and Fund 079527, Torrey Pines Development Impact Fee CIP-29-437.0, Torrey Pines Pocket Park Project \$162,000.

No expenditures are anticipated to be incurred against commercial paper at this time. In an effort to defer the issuance of commercial paper, available cash in the amount of \$3,350,583 will be identified through our cash management process.

Mendes/Boekamp/DZ

Aud. Cert. 2500265.

FILE LOCATION: W.O. #525170

COUNCIL ACTION: (Time duration: 2:55 p.m. – 3:01 p.m.)

MOTION BY PETERS TO ADOPT. Second by Frye. Passed by the following vote:  
Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea,  
Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-102: Settlement of Personnel Claims of Lisa J. Vargas and Anna L. Hofmeister.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-247) ADOPTED AS RESOLUTION R-299683

Authorizing the City Manager to pay the sum of \$900,000, to Lisa J. Vargas and Anna L. Hofmeister and their attorneys, in the settlement of each and every claim by Lisa J. Vargas and Anna L. Hofmeister against the City of San Diego, its agents and employees, resulting from the personnel claims of Lisa J. Vargas and Anna L. Hofmeister;

Authorizing the City Auditor and Comptroller to issue four checks, one made payable to Lisa J. Vargas in the amount of \$264,966.82, one made payable to Anna L. Hofmeister in the amount of \$209,706.82, one made payable to their attorneys of record, Robert C. Ryan in the amount of \$217,743.84, and one made payable to David M. deRubertis in the amount of \$207,582.52. This constitutes the complete and final settlement of the personnel claims of Lisa J. Vargas and Anna L. Hofmeister against the City of San Diego, its agents and employees.

**CITY MANAGER SUPPORTING INFORMATION:**

This constitutes the complete and final settlement of the personnel claims of Lisa J. Vargas and Anna L. Hofmeister against the City of San Diego, its agents and employees, as a result of alleged incidents which occurred during their employment with the San Diego Fire Department.

This settlement and proposed payment has been reviewed by the City Council in closed session.

Lexin/Lopez/JE

Aud. Cert. 2500223.

**NOTE:** The Auditor's Certificate was not requested prior to Closed Session. The vote taken in Open Session shall be the official vote.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 2:15 p.m. – 2:19)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-103: Settlement of the City's Lawsuit Against DMG Maximus, Inc., Regarding the Design of the City of San Diego Water Department's Central Facility.

(Kearny Mesa Community Area. District-6.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-207) ADOPTED AS RESOLUTION R-299684

Authorizing acceptance of \$200,000 in full settlement of the City's lawsuit against DMG Maximus, Inc., regarding the design of the City of San Diego Water Department's Central Facility;

Authorizing an increase in appropriation for Fiscal Year 2005 to Water Fund 41500, CIP-73-338.0/CIP-73-338.1, Water Department Central Facility in the amount of \$200,000, said increase to be funded exclusively by the above-referenced settlement.

**CITY MANAGER SUPPORTING INFORMATION:**

In June 1997, the Zero Based Management Review recommended that the Water Department consolidate and relocate its office and maintenance facilities outside of downtown in order to reduce annual rent and operating costs by \$3,052,931. After an initial selection and interview process, Conwell Shonkwiler & Associates (CSA) along with DMG Maximus (DMG) were hired to develop a building program, concept plan, and construction budget for the project.

In July 1999, the City contracted with CSA to design this facility based on the building program and construction budget established by CSA and DMG. DMG was hired as a sub consultant to CSA during the design of the facility to make sure the design adhered to the budget and building program approved by the City Council.

In March 2000, CSA submitted 30 percent design documents that were \$14 to \$18 million dollars over the project's budget, the City directed CSA to redesign the project back to within the approved budget. CSA partially blamed the cost overrun on DMG's work. It appeared DMG did not review CSA's work as required, but invoiced for these services. After a failed attempt to redesign the project back within budget, the City Council authorized the termination of CSA's design services, and the filing of an action against CSA and DMG for breach of written contract and professional negligence.

Mediation between the City, DMG, and CSA was conducted June 22 and 23, 2004 with a tentative agreement being reached with CSA on June 28, 2004. DMG refused to settle. The City accepted \$2.3 million as a settlement of its lawsuit against its consultant CSA on August 10, 2004.

The City Council directed the City Attorney to demand not less than \$200,000 from DMG, or proceed with its case against DMG with trial set to start on September 10, 2004. Prior to trial, DMG agreed to pay the City \$200,000 as settlement of the City's lawsuit against its consultant DMG.

The Water Department restarted the project by hiring a consultant to study the feasibility of a public-private partnership to design-build-lease back a new Water Department facility at the same site. The Water Department expects to have the feasibility study completed by September 2004.

**FISCAL IMPACT:**

The \$200,000 settlement will be used to assist funding the Central Facility project, CIP-73-338.0/CIP-73-338.1.

Mendes/Belock/MM



Aud. Cert. 2500256.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:19)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-104: Consultant Agreement with DeLorenzo Incorporated for Carroll School Park Site Development.

(Mira Mesa Community Area. District-5.)

**CITY MANAGER’S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-268) ADOPTED AS RESOLUTION R-299685

Authorizing the City Manager to execute a consultant agreement with DeLorenzo Incorporated for professional services needed for the Carroll School Park Site Development, under the terms and conditions set forth in the agreement;

Authorizing the expenditure of an amount not to exceed \$280,000 from CIP-29-757.0, Carroll School Park Site - Park Development for the purpose of providing funds for the above-referenced Project.

**CITY MANAGER SUPPORTING INFORMATION:**

This eleven-acre park is located in the community area of Mira Mesa, between New Salem Street and Westmore Road directly to the north of the existing Mira Mesa Community Park. The agreement with DeLorenzo Inc. will provide the professional services required for the preparation of a General Development Plan for Carroll School Park Site Development. The General Development Plan is the conceptual/master plan for the park design. It will be used for presentations to the advisory bodies and as the exhibit on which the construction plans will be based. The General Development Plan will be created using community input gathered from two

public workshops (5/22/04, 10/16/04) and one community focus group (9/11/04).  
DeLorenzo Inc. was selected in accordance with Council Policy 300.7.

**FISCAL IMPACT:**

This agreement allows for a \$262,000 fixed fee and \$18,000 for reimbursable expenses and additional services. Funds in the amount of \$280,000 are available in CIP-29-757.0, Carroll School Park Site - Park Development, Mira Mesa Facilities Benefit Assessment Fund No. 79006.

Herring/Oppenheim/AP

Aud. Cert. 2500248.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:19)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-105: Agreement with Heritage Architecture and Planning (formerly Architect Milford Wayne Donaldson) to Provide Architectural and Engineering Services for the Balboa Park Historical/Cultural Projects (Casa Del Prado, California Tower, and Museum of Art).

(Balboa Park Community Area. District-3.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-271) ADOPTED AS RESOLUTION R-299686

Authorizing the City Manager to enter into an agreement not to exceed \$500,000 with Heritage Architecture and Planning (formerly Architect Milford Wayne Donaldson) to provide architectural and engineering services for the Balboa Park Historical/Cultural Projects (Casa Del Prado, California Tower, and Museum of Art), under the terms and conditions set forth in the agreement;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$500,000 from Balboa Park Historical/Cultural Projects (Casa Del Prado, California Tower, and Museum of Art), CIP-21-855.0, for the restoration of the Balboa Park Historical/Cultural buildings (Casa Del Prado, California Tower, and Museum of Art), provided that the City Auditor and Comptroller first certifies that the necessary funds are, or will be, available on deposit with the City Treasurer.

**CITY MANAGER SUPPORTING INFORMATION:**

Casa Del Prado, California Tower & Museum of Art are three historic buildings located within the Balboa Park community area. These historic buildings are in need of restoration & preservation due to the deteriorated facade & window surrounds. This project will address the deficiencies in the front facade ornamentations (cast stone front piece), window surrounds, cornices, stucco, as well as the structural analysis of the front wall system. Detailed structural testing will be performed to determine the structural integrity of the walls that support the ornamentation. The restoration will address long term maintenance requirements. Under this contract, Heritage Architecture & Planning will provide testing, evaluation, repair and construction documents for the three Historic buildings.

Heritage Architecture & Planning (Formerly Architect Milford Wayne Donaldson) was selected in accordance with Council Policy 300-7.

**FISCAL IMPACT:**

This agreement allows for a total of \$500,000 (\$430,000 fixed fee, \$20,000 for reimbursable expenses and \$50,000 for additional services). This project is currently funded in the amount of \$3,500,000 from the State 2000 Park Bond per Capita funding. Funds have been allocated in three sublets: \$1,500,000 in Casa Del Prado (CIP-21-855.4), \$1,500,000 in Museum of Art (CIP-21-855.3) and \$500,000 in California Tower (CIP-21-855.2).

Herring/Oppenheim/KR

Aud. Cert. 2500243.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:19)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-106: Grant Application to the State Department of Alcoholic Beverage Control for Local Law Enforcement Agencies Project to Prevent Access to and Use of Alcohol by Minors.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-281) ADOPTED AS RESOLUTION R-299687

Authorizing the Chief of Police to apply for, accept, contract, manage and expend this grant, including any amendments, extensions, or renewals, for a period of up to five years, provided funding is made available by the State of California;

Authorizing the Chief of Police to execute all aspects of program operation, including any contracts, amendments, extensions, or renewals, and to certify that the City will comply with all applicable statutory or regulatory requirements related to this program;

Declaring that any resources received hereunder shall not be used to supplant expenditures controlled by this body.

**CITY MANAGER SUPPORTING INFORMATION:**

The California Department of Alcoholic Beverage Control yearly solicits grant applications from cities for the purpose of preventing the access to and use of alcohol by minors.

Project goals are to reduce access to alcohol by minors citywide through education and enforcement, with special emphasis on highly-impacted target areas; and as a result, to reduce alcohol-related youth offense. The project also implements projects to identify and arrest adults who assist minors to acquire alcohol.

These goals are facilitated by identifying, targeting and employing fast track sanctions, including code violations, against establishments and individuals who provide alcohol to minors; and by deterring minors citywide from obtaining alcohol. Evaluations will compare baseline and

ongoing offense and arrest statistics. SDPD has applied for and received this grant regularly over the past several years. The grant is for \$100,000 per year. Of this, approximately \$34,500 is allocated toward the salary and benefits of an SDPD Vice Detective. The balance is divided among the University of California at San Diego, San Diego State University, and the San Diego Fire Department for personnel overtime assistance in the project.

**FISCAL IMPACT:**

There is no requirement for matching funds. However, SDPD agrees to fund the balance of approximately \$53,000 salary and benefits for the Vice Detective. SDPD agrees to fund this requirement from the regular budget. There is no requirement to continue project activities after grant funding has concluded. Federal law requires that these funds *supplement* and not *supplant* funds otherwise available to law enforcement.

Ewell/Lansdowne/DJW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:19)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-107: Accepting Grant Funds for Lighting and Electrical Improvements at Brown Field Airport.

(Otay Mesa Community Area. District-8.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-242) ADOPTED AS RESOLUTION R-299688

Authorizing the City Manager, or designee, to apply to the Federal Aviation Administration for Airport Improvement Program Grant funds in the amount of \$300,000 and to the California Department of Transportation for State

Aeronautics Grant funds in the amount of \$15,000, for the design and site preparation to rehabilitate Runway 08L/26R lighting at the Brown Field Airport;

Authorizing the City Manager, or designee, to take all necessary actions to secure funds from the Federal Aviation Administration and the California Department of Transportation, for the electrical project at the Brown Field Airport;

Authorizing the City Auditor and Comptroller to add CIP-31-300.0, Brown Field-Airfield Electrical and Lighting System, to the Fiscal Year 2005 Capital Improvements Program Budget;

Authorizing the City Auditor and Comptroller to amend the Fiscal Year 2005 Capital Improvements Program Budget to add \$330,000 to CIP-31-300.0, Brown Field-Airfield Electrical and Lighting System, upon receipt of a fully executed grant agreement;

Authorizing the City Auditor and Comptroller, upon receipt of a fully executed grant agreement, to transfer \$15,000 from Airports Enterprise Fund 10510, to CIP-31-300.0, Brown Field-Airfield Electrical and Lighting System, to serve as the City match for State and Federal grant funds;

Authorizing the City Auditor and Comptroller to accept \$300,000 in Airport Improvement Program Grant Funds from the Federal Aviation Administration and \$15,000 in State Aeronautics Funds from the California Transportation Department, if the grants are secured;

Authorizing the City Auditor and Comptroller, upon receipt of a fully executed grant agreement, to appropriate and expend \$330,000 from CIP-31-300.0, Brown Field-Airfield Electrical and Lighting System, in accordance with the terms and conditions set forth in the grant funding agreement.

**CITY MANAGER SUPPORTING INFORMATION:**

The purpose of this action is to request authorization for the City Manager to apply for, accept, and expend Federal, (\$300,000) and State (\$15,000) Grant funds for the improvement of Brown Field Airport.

The existing airfield electrical and lighting system is unreliable and failing. Some components of the system are up to 40 years old and well past their useful life. The Federal Aviation Administration (FAA) supports this project, as it will enhance safety at Brown Field Airport. As such, the FAA provided the City Grant offer (AIP#3-06-0213-09) in the amount of \$300,000 in

Airport Improvement Program Grant Funds. AIP#3-06-0213-09 is for Phase I of this project. Phase I is specifically for the design and site preparation to rehabilitate Runway 08L/26R lighting. The City has been advised by the FAA that as additional funding becomes available, future Grant Offers will be made to complete construction of the project. After the FAA Grant offer is accepted, it is anticipated that the California Department of Transportation will offer the City Federal Matching funds in the amount of \$15,000.

**FISCAL IMPACT:**

None if the grants are not accepted. If the grants are accepted, total project design costs is estimated at \$330,000. The Federal share is \$300,000, State share is \$15,000, and the Airport Enterprise Fund share is \$15,000.

Herring/Griffith/Mean

Aud. Cert. 2500216.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:19)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-108: Sewer Easement Vacation in Portion of Lots 1 and 2 Block 63 of Middletown CCI 1874.

(Centre City Community Area. District-2.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-284) ADOPTED AS RESOLUTION R-299689

Vacating the sewer easement located within Lots 1 and 2 Block 63 of Middletown CCI 1874, to unencumber this property and facilitate development of the site,

under the procedure for the summary vacation of public service easement,  
Section 8330 et seq., of the California Streets and Highways Code.

**CITY MANAGER SUPPORTING INFORMATION:**

City Council action is requested to vacate an unneeded sewer easement in Lots 1 and 2 Block 63 Middletown CCI 1874 as shown on Engineering Drawing No. 20236-B. This site is located in the Centre City Community Plan area, southwesterly of India Street and Juniper Street in Council District 2.

The sewer easement being vacated was originally acquired on October 7, 1925, for the construction of two residences that are going to be demolished to make way for a proposed six-story self storage facility. The design of the storage facility does not require any sewer lines on private property.

The easement was acquired at no cost to the City, and the City has no fee interest.

Staff has reviewed and recommends approval of this action.

**FISCAL IMPACT:**

None.

Loveland/Broughton/GRB

FILE LOCATION: DEED F-9820

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:19)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-109: Construction of Two Electronic Speed Limit Signs on Waring Road.

(Navajo Community Area. District-7.)



**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-285) ADOPTED AS RESOLUTION R-299690

Amending the Fiscal Year 2005 Capital Improvements Program Budget for CIP-61-001.0, Traffic Control and Calming Measures, to increase the budget amount by \$20,000;

Authorizing the City Auditor and Comptroller to appropriate \$20,000 from Fund 79506, Navajo DIF Fund, to CIP-61-001.0, Traffic Control and Calming Measures;

Authorizing the City Manager to expend \$20,000 for CIP-61-001.0, Traffic Control and Calming Measures, for the purpose of the construction of two electronic speed limit signs on Waring Road;

Authorizing the City Auditor and Comptroller upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

**CITY MANAGER SUPPORTING INFORMATION:**

This project will install two electronic display signs on Waring Road near Greenbrier Avenue in the Navajo area. The first sign will be installed facing northbound traffic on the 5200 block of Waring Road. The second sign will be installed facing southbound traffic on the 5300 block of Waring Road. Both locations have been evaluated and recommended for the installation of these traffic-calming devices. The estimated cost for this project is \$20,000.

**FISCAL IMPACT:**

The total estimated project cost for the two electronic speed signs is \$20,000. Funds are available in Fund 79506, Navajo DIF Fund.

Mnedes/Boekamp/DZ

Aud. Cert. 2500258.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:19)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-200: Confirmation of Agreement with Orrick, Herrington and Sutcliffe for General Legal Services.

(Continued from the meeting of September 13, 2004, Item S407, at the request of City Attorney for further review.)

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-261) CONTINUED TO MONDAY, OCTOBER 11, 2004,  
WITH DIRECTION

Authorizing the City Manager to execute the Confirmation of Agreement with Orrick, Herrington & Sutcliffe, for General Legal Services, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$470,216.75 (\$31,549.46 from Fund 10253, Dept. 10253, Org. 2001, Acct. 4151; \$171,005.99 from Fund 102214, Dept. 102214, Org. 250, Acct. 4151; \$31,549.46 from Fund 102212, Dept. 102212, Org. 100, Acct. 4151; \$31,549.46 from Fund 100, Dept. 601, Org. 3300, Acct. 4151; \$ 31,549.46 from Fund 10330, Dept. 930, Org. 2200, Acct. 4151; \$31,549.46 from Fund 10226, Dept. 918, Acct. 4151; \$31,549.46 from Fund 102240, Dept. 1024, Org. 1854, Acct. 4151; \$94,542.75 from Fund 72016, Dept. 92016, Acct. 4151; \$15,371.25 from Fund 41500, Dept. 760, Org. 163, JO 4141, Acct. 001015), for the purpose of providing funds for the above referenced Project.

**SUPPORTING INFORMATION:**

City previously retained the services of Orrick to render legal advice and assist the City with general legal services pertaining to disclosure issues for City bond financings.

As directed by the City Attorney's Office, Orrick provided the City with the following general legal services related to such financings: (1) prepared voluntary disclosure for the General Fund;

(2) prepared Rule 15c2-12 annual reports for the General Fund; (3) prepared voluntary disclosure for the Wastewater System of the City [Wastewater System]; (4) prepared a Rule 15c2-12 annual report for the Wastewater System; (5) prepared a Rule 15c2-12 annual report for the Water Utility System of the City; and (6) substituted amounts on deposit in the reserve fund established under the Indenture related to the Ballpark Project with debt service reserve credit facility. Payments for these services are usually funded through bond proceeds, however, the issuance of bonds related to the Firm's services has been delayed and it is appropriate to provide for alternative funding. Funds are available from various project accounts related to the Firm's services.

**FISCAL IMPACT:**

Expenditure of an amount not to exceed \$470,216.75 as follows: (\$31,549.46 from Fund 10253, Dept. 10253, Org. 2001, Acct. 4151; \$171,005.99 from Fund 102214, Dept. 102214, Org. 250, Acct. 4151; \$31,549.46 from Fund 102212, Dept. 102212, Org. 100, Acct. 4151; \$31,549.46 from Fund 100, Dept. 601, Org. 3300, Acct. 4151; \$ 31,549.46 from Fund 10330, Dept. 930, Org. 2200, Acct. 4151; \$31,549.46 from Fund 10226, Dept. 918, Acct. 4151; \$31,549.46 from Fund 102240, Dept. 1024, Org. 1854, Acct. 4151; \$94,542.75 from Fund 72016, Dept. 92016, Acct. 4151; \$15,371.25 from Fund 41500, Dept. 760, Org. 163, JO 4141, Acct. 001015).

Noone/KS

Aud. Cert. 2500245.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:19 p.m. – 3:47 p.m.)

Motion by Madaffer to adopt. Second by Inzunza. No vote taken.

MOTION BY FRYE TO CONTINUE TO OCTOBER 11, 2004, WITH DIRECTION THAT THE CITY ATTORNEY AMEND THE CONFIRMATION AGREEMENTS WITH ORRICK, HERRINGTON AND SUTCLIFFE TO CLARIFY THE FOLLOWING:

1. THAT THE AGREEMENT FOR DISCLOSURE COUNSEL SERVICES WILL BE TERMINATED;
2. FOR WHAT SPECIFIC SERVICES THE FIRM IS BEING COMPENSATED;

3. THE SPECIFIC AMOUNT BEING PAID BY THE CITY TO THE FIRM FOR THOSE SERVICES; AND
4. THE SPECIFIC NATURE OF THE RELATIONSHIP BETWEEN THE CITY AND THE FIRM FROM THIS POINT FORWARD.

Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-nay, Mayor Murphy-yea.

ITEM-201: Approving Disposition and Development Agreement Between Redevelopment Agency and East Village Square, LLC for the Sale and Development of Real Property (Left Field Development Parcel).

(See Centre City Development Corporation Report CCDC-04-35/CCDC-04-21. East Village Redevelopment District of the Expansion Sub Area of the Centre City Redevelopment Project. District-2.)

**CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-291) ADOPTED AS RESOLUTION R-299691

Approving the sale of certain property (Left Field Development Parcel) located generally at the block bounded by Seventh Avenue, Eighth Avenue, J Street, and K Street in the Centre City Redevelopment Project Area, to East Village Square, LLC; approving the Disposition and Development Agreement pertaining thereto; and making certain findings with respect to such sale.

**NOTE:** This is a Special Joint Public Hearing with the Redevelopment Agency. See the Redevelopment Agency agenda of September 27, 2004, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:14 p.m. – 4:40 p.m.)

MOTION BY ZUCCHET TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-nay, District 4-vacant, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-250: **Notice** of Settlement of Property Damage Claim of Scott Bernstein.

(R-2005-270)

Adopted as Resolution R-299615 on September 7, 2004.

A Resolution approved by the City Council in Closed Session on Tuesday, September 7, 2004, by the following vote: Peters-yea; Zucchet-yea; Atkins-yea; Councilmember District 4-vacant; Maienschein-yea; Frye-yea; Madaffer-not present; Inzunza-yea; Mayor-yea.

Authorizing the City Manager to pay the sum of \$69,777.93 in the settlement of each and every claim against the City, its agents and employees, resulting from a sewer back-up into the residence of Scott Bernstein, which occurred on January 20, 2004;

Authorizing the City Auditor and Comptroller to issue one check in the amount of \$25,000 made payable to Scott Bernstein, in full settlement of all claims.

Aud. Cert. 2500200.

**NOTE:** This item is placed on a Council docket, so that the official and public record will reflect the adoption of this Resolution. It does not require any further Council action.

ITEM-251: **Notice** of Pending Final Map Approval – 1964 Chalcedony Street Condominiums.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “1964 Chalcedony Street Condominiums”(T.M. No. 25867), located northeasterly of Chalcedony Street and Lamont Street in the Pacific Beach Community Plan Area in Council District 2, a copy of which is available for public viewing at the Office

of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

(1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-S400: Anne Cleveland Day.

**COUNCILMEMBER PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2005-332) ADOPTED AS RESOLUTION R-299678

Proclaiming the day of September 27, 2004, to be "Anne Cleveland Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:37 p.m. – 2:41 p.m.)

MOTION BY PETERS TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S401: Monique Henderson Day.

**DEPUTY MAYOR ATKINS' RECOMMENDATION ON BEHALF OF COUNCIL DISTRICT FOUR:**

Adopt the following resolution:

(R-2005-327) ADOPTED AS RESOLUTION R-299676

Commending the Olympic gold medal-winning performance of Monique Henderson in the women's 4x400 meter relay, and congratulating her on her continuing stellar career in women's track which has brought honor and glory to her, her family, her native San Diego, and her country;

Proclaiming September 27, 2004, to be "Monique Henderson Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:42 p.m. – 2:54 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Mayor Murphy. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S402: Appointments to the Community Forest Advisory Board.

(See memorandum from Mayor Murphy dated 9/17/2004, with resumes attached.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-321) ADOPTED AS RESOLUTION R-299692

Council confirmation of the following appointments by the Mayor to serve as members of the Community Forest Advisory Board, for terms ending as indicated, and representing categories as indicated:

<u>Name</u>	<u>Term Ending</u>	<u>Category</u>
Jon Becker (replacing Jim Neri, whose term expired.)	December 31, 2006	District 1
Craig B. Jones (replacing Victoria Touchstone, who resigned, to complete her term.)	December 31, 2005	District 5
William R. Tall (replacing Jesse Durfee's term, who resigned, to complete his term.)	December 31, 2005	Horticulturist/Nursery

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:19 p.m. – 2:23 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S403: Amendment to the Retention Agreement with Vinson & Elkins to Provide Representation Before the Securities and Exchange Commission and to Prepare an Internal Report on Disclosure Practices.

**CITY ATTORNEY'S RECOMMENDATION:**



Adopt the following resolution:

(R-2005-204) ADOPTED AS RESOLUTION R-299693

Authorizing and directing the City Attorney to execute an amendment to the retention agreement with Vinson & Elkins (“V&E”) for an additional amount not to exceed \$700,000, for a total contract amount not to exceed \$2.0 million.

**SUPPORTING INFORMATION:**

The City previously retained the law firm of Vinson & Elkins to prepare an internal report on the City’s securities disclosure practices from 1996 through the present. The City Manager authorized the retention in an amount not to exceed \$150,000, and subsequently the City Council authorized an additional \$350,000 as a result of the initiation of an investigation into certain City financial matters by the Federal Securities & Exchange Commission (SEC). Subsequently, the City Council authorized the addition sum of \$800,000, for a total contract amount not to exceed \$1.3 million. The current authorization is insufficient to complete the internal report and continue the City’s representation before the SEC due to the complexity of the issues, the significant document production required to the SEC, and the scope of the report under preparation. An additional authorization is now being requested in an amount not to exceed \$700,000, for a total contract amount not to exceed \$2.0 million. It is anticipated that the additional authorization will be sufficient to complete and present the report, and continue representation before the SEC for the immediate future. Additional funding may be required if additional issues arise or the scope of services expands.

Ewell/Girard

Aud. Cert. 2500255.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:48 p.m. – 4:12 p.m.)

MOTION BY ZUCCHET TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

**NON-DOCKET ITEMS:**

None.

**ADJOURNMENT:**

The meeting was adjourned by Mayor Murphy at 4:45 p.m. in honor of the memory of:

Judge Judith M. Keep as requested by Council Member Atkins; and  
Gary Whaite as requested by Council Member Peters.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 4:45 p.m.)